

AMENDED IN SENATE APRIL 3, 2001
AMENDED IN SENATE MARCH 15, 2001

SENATE BILL

No. 140

Introduced by Senator Bowen

January 29, 2001

An act to amend Sections 2329 ~~and~~, 2613, and 2620.2 of the Probate Code, relating to guardianship and conservatorship.

LEGISLATIVE COUNSEL'S DIGEST

SB 140, as amended, Bowen. Guardians and conservators.

Existing law requires that every person appointed as a guardian or conservator shall give a bond approved by a court before letters of guardianship and conservatorship are issued, except as specified. Existing law allows a court, on a showing of good cause, to reduce the amount of bond below the amount established by a specified method.

This bill would provide that the bond provided by guardians and conservators shall not be reduced below the amount established by the specified method.

Existing law provides that whenever any property of the ward or conservatee is discovered, or whenever any other property is received by the ward or conservatee or guardian or conservator on behalf of the ward or conservatee, the guardian or conservator shall file a supplemental inventory, as specified.

This bill would require the court to adjust the amount of bond required of the guardian or conservator, as specified, if the value of the estate indicates a change of 25%, regardless of whether the change is an increase or decrease in the value of the estate.

Existing law requires a conservator or guardian to present an account of the estate of the conservatee or ward to a court for settlement and allowance, as specified.

This bill would provide that, when a conservator or guardian, after citation by a court for failure to comply with the above provision, still does not file an account and set the account for hearing, and the value of the estate of the ward or conservatee exceeds \$20,000, a court would be required to do one or more of the following: (1) punish or remove the conservator or guardian, as specified; (2) order that money or personal property in the estate be deposited into an account to be subject to withdrawal only upon authorization of the court; (3) appoint legal counsel to represent the ward conservatee, who shall be ordered to perform one or more specified activities. *The bill would further require the court, upon the filing of the accounting, as specified, to terminate the appointment of legal counsel unless the court determines continued representation of the ward or conservatee and the estate is necessary and reasonable.* This bill would also require the Judicial Council to make a cost-of-living adjustment to the amount used for valuation the estate, as specified, and to post these adjusted amounts on the official Web site of the Judicial Council.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2329 of the Probate Code is amended to
2 read:
3 2329. (a) If a guardian or conservator moves the court for
4 reduction in the amount of the bond, the motion shall include an
5 affidavit setting forth the condition of the estate.
6 (b) The amount of the bond shall not be reduced below the
7 amount determined pursuant to Section 2320. If the actual value
8 of the estate subject to this subdivision is unknown at the time of
9 the appointment of the guardian or conservator, the court shall
10 adjust the amount of the bond within 60 days of the filing of the
11 inventory of the estate conducted under Section 2610. Property
12 included in the estate and subject to court control under Section
13 2328 shall be excluded from the value of the estate under Section
14 2320.



1 (c) Nothing in this section limits the authority of the court to
2 reduce the amount of the bond with or without notice under
3 Section 2328.

4 SEC. 2. *Section 2613 of the Probate Code is amended to read:*

5 2613. Whenever any property of the ward or conservatee is
6 discovered that was not included in the inventory, or whenever any
7 other property is received by the ward or conservatee or by the
8 guardian or conservator on behalf of the ward or conservatee
9 (other than by the actions of the guardian or conservator in the
10 investment and management of the estate), the guardian or
11 conservator shall file a supplemental inventory and appraisal for
12 that property and like proceedings shall be followed with respect
13 thereto as in the case of an original inventory, but the appraisal
14 shall be made as of the date the property was so discovered or
15 received. *If the supplemental inventory indicates a change in the*
16 *value of the estate from the date of the last inventory of at least 25*
17 *percent, regardless of whether the change is an increase or*
18 *decrease in value, the court shall adjust the amount of the bond*
19 *required of the guardian or conservator pursuant to Section 2320.*

20 SEC. 3. Section 2620.2 of the Probate Code is amended to
21 read:

22 2620.2. (a) Whenever the conservator or guardian has failed
23 to file an account as required by Section 2620, the court shall
24 require that written notice be given to the conservator or guardian
25 and the attorney of record for the conservatorship or guardianship
26 directing the conservator or guardian to file an account and to set
27 the account for hearing before the court within 60 days of the date
28 of the notice or, if the conservator or guardian is a public agency,
29 within 120 days of the date of the notice.

30 (b) Should the conservator or guardian fail to file the account
31 and set the account for hearing within the time specified in
32 subdivision (a), unless that time has been extended for good cause
33 by court order, a citation shall be issued, served, and returned,
34 requiring the conservator or guardian to appear at court and show
35 cause why he or she should not be punished for contempt.

36 (c) If the conservator or guardian does not file an account and
37 set the account for hearing as required by Section 2620 after
38 having been cited under subdivision (b), the conservator or
39 guardian may be punished for contempt, or removed as
40 conservator or guardian, or both, in the discretion of the court.

(d) If the conservator or guardian does not file an account and set the account for hearing as required by Section 2620 after having been cited under subdivision (b), and the value of the estate exceeds twenty thousand dollars (\$20,000) based on the estate inventory or the last accounting filed with the court, the court shall do one or more of the following:

(1) Punish or remove the conservator or guardian as provided under subdivision (c).

(2) Order that money or property in the estate be deposited pursuant to Section 2453 or 2454 to be subject to withdrawal only upon authorization of the court.

(3) Appoint legal counsel to represent the ward or conservatee. Legal counsel shall be compensated pursuant to Section 1470. The court shall order the legal counsel to do one or more of the following:

(A) Prepare and submit the accounting to the court.

(B) Recommend to the court whether the conservator or guardian should be removed.

(C) Recommend to the court whether money or other property in the estate should be deposited pursuant to Section 2453 or 2454 to be subject to withdrawal only upon authorization of the court.

(4) Upon filing of the accounting pursuant to subparagraph (A) and recommendations pursuant to subparagraphs (B) and (C), the court shall terminate the appointment of legal counsel, unless the court determines that continued representation of the ward or conservatee and the estate is necessary and reasonable.

(e) On and after January 1, 2003, the amount specified in subdivision (d) shall be annually adjusted by the percentage change in the Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U) for the United States city average for all items, with a base period of 1982 to 1984, inclusive. The Judicial Council shall calculate the adjusted figure and shall round the figure to the nearest whole dollar. These annual fee adjustments shall be posted on the official public web site of the Judicial Council.